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Before the  
 Federal Communications Commission  
 Washington, D.C. 20554

FCC MAIL ROOM

JUN 13 3 03 PM '94

DISPATCH

MM Docket No. 94-5 ✓

In the Matter of

Amendment of Section 73.202(b),  
 Table of Allotments,  
 FM Broadcast Stations.  
 (Olivia and Sauk Rapids,  
 Minnesota)

RM-8420

**REPORT AND ORDER**  
**(Proceeding Terminated)**

Adopted: June 1, 1994;

Released: June 10, 1994

By the Acting Chief, Allocations Branch:

1. The Commission has before it for consideration the *Notice of Proposed Rule Making and Order to Show Cause*, 9 FCC Rcd 691 (1994), proposing the substitution of Channel 269C2 for Channel 269A at Sauk Rapids, Minnesota. The *Notice* was issued in response to a petition filed by Tri-County Broadcasting, Inc. ("petitioner"). Petitioner also requested modification of its license for Station WHMH(FM) to specify operation on the higher class channel. Petitioner filed comments restating its interest in the allotment of Channel 269C2. Olivia Broadcasting Company filed comments in response to the *Order to Show Cause*.

2. As stated in the *Notice*, Channel 269C2 can be allotted to Sauk Rapids in compliance with the Commission's spacing requirements provided Channel 269A at Olivia, Minnesota, is deleted. Olivia Broadcasting Company ("Olivia Broadcasting") is the licensee of Station KOLV, Channel 269A, Olivia, Minnesota. Petitioner proposed the substitution of Channel 261A for Channel 269A at Olivia, which can be used at the current site of Station KOLV.

3. Olivia Broadcasting states that it has no objection to the proposed frequency change at Olivia provided the petitioner reimburse Olivia Broadcasting Company for its expenses incurred in changing their frequency to the new channel.

4. After careful consideration of the proposal, we conclude that the public interest would be served by the channel substitution at Sauk Rapids, Minnesota, as a wide coverage area service will be provided to the community. In order to accomplish the substitution at Sauk Rapids, Channel 261A must be substituted for Channel 269A at Olivia, Minnesota. Both substitutions can be made in compliance with the Commission's minimum distance spacing requirements.<sup>1</sup> In accordance with Section 1.420(g) of the Commission's Rules, we are herein modifying the license for Station WHMH(FM), Sauk Rapids, Minnesota, to speci-

fy operation on Channel 269C2. We shall also modify the license for Station KOLV, Olivia, Minnesota, to specify operation on Channel 261A in lieu of Channel 269A in accordance with the Commission's Rules.

5. Commission policy requires that Station KOLV be reimbursed for the reasonable cost of changing frequencies from one class A channel to another. Petitioner has acknowledged its responsibility to reimburse Station KOLV, Olivia for the reasonable costs in changing frequency.

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **July 25, 1994**, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, to read as follows:

Community	Channel No.
Olivia, Minnesota	261A
Sauk Rapids, Minnesota	269C2

7. IT IS FURTHER ORDERED, That the Secretary of the Commission, Shall Send by Certified Mail, Return Receipt Requested, a copy of this *Order* to the following:

Gregg S. Skall  
 Ellen S. Mandell  
 Pepper & Corazzini  
 200 Montgomery Building  
 1776 K Street, N. W., Suite 200  
 Washington, D.C. 20006

8. IT IS FURTHER ORDERED, pursuant to the authority contained in Section 316 of the Communications Act of 1934, as amended, that the license of Station WHMH(FM), Sauk Rapids, Minnesota, IS MODIFIED to specify operation on Channel 269C2, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee shall file with the Commission a minor change application for construction permit (Form 301), specifying the new facility.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

9. IT IS FURTHER ORDERED, That pursuant to the authority contained in Section 316 of the Communications Act of 1934, as amended, that the License of Station

<sup>1</sup> The coordinates for Channel 269C2 at Sauk Rapids are 45-32-00 and 94-17-00. The coordinates for Channel 261A at

Olivia are 44-45-51 and 94-55-45.

KOLV, Olivia, Minnesota, IS MODIFIED, to specify operation on Channel 261A subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in License BLH-931005KC except for the channel as specified above. Any changes, except those specified require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with License BLH-931005KC, except for the channel as specified above, and a license application (Form 302) is filed within 10 days of commencement of program tests.

10. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Tri-County Broadcasting, Inc., licensee of Station WHMH(FM), is required to submit a rule making fee in addition to the fee required for the applications to effect the upgrade.

11. IT IS FURTHER ORDERED. That this proceeding IS TERMINATED.

12. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Acting Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau